

AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 523

Introduced by Assembly Member Calderon

February 18, 2003

An act to amend Sections 7507.9 and 7507.10 of, and to add Section 7507.14 to, the Business and Professions Code, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 523, as amended, Calderon. Collateral recovery.

Existing law, the Collateral Recovery Act, requires a licensed repossession agency to make an inventory of personal property recovered that is not covered by a debtor's security agreement. Existing law requires a licensee to provide the inventory to the debtor within a certain time frame.

This bill would instead require a licensee to make the inventory available to the debtor within that time frame. The bill would require a licensee to keep the inventory document confidential and restrict its disclosure. The bill would provide that a licensee has a possessory lien for storage charges on the collateral and *a separate possessory lien on the debtor's personal effects contained in or on the collateral*.

Because this bill would place additional requirements on a person licensed under the Collateral Recovery Act, the violation of which is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7507.9 of the Business and Professions
2 Code is amended to read:

3 7507.9. If personal effects or other personal property, not
4 covered by a security agreement, are contained in or on collateral
5 at the time it is recovered, the effects shall be removed from the
6 collateral subject to the security interest, a complete and accurate
7 inventory shall be made, and the personal effects shall be labeled
8 and stored by the licensee for a minimum of 60 days in a secure
9 manner, except those personal effects removed by or in the
10 presence of the debtor or the party in possession of the collateral
11 at the time of the repossession.

12 (a) The date and time the inventory is made shall be indicated
13 and shall be signed by the repossession agency registrant or
14 employee who performs the inventory.

15 (b) The following items of personal effects are items
16 determined to present a danger or health hazard when recovered
17 by the licensee and shall be disposed of in the following manner:

18 (1) Deadly weapons and dangerous drugs shall be turned over
19 to a local law enforcement agency for retention. These items shall
20 be entered on the inventory and a notation shall be made as to the
21 date and the time and the place the deadly weapon or dangerous
22 drug was turned over to the law enforcement agency, and a receipt
23 from the law enforcement agency shall be maintained in the
24 records of the repossession agency.

25 (2) Combustibles shall be inventoried and noted as “disposed
26 of, dangerous combustible,” and the item shall be disposed of in
27 a reasonable and safe manner.

28 (3) Food and other health hazard items shall be inventoried and
29 noted as “disposed of, health hazard,” and disposed of in a
30 reasonable and safe manner.



1 (c) Personal effects may be disposed of after being held for at
2 least 60 days. The inventory, and adequate information as to how,
3 when, and to whom the personal effects were disposed of, shall be
4 filed in the permanent records of the licensee.

5 (d) The inventory or the notice of seizure required by Section
6 7507.10 shall include the name, address, business hours, and
7 phone number of the person at the repossession agency to contact
8 for recovering the personal effects and an itemization of all
9 personal effect removal and storage charges that will be made by
10 the repossession agency. The inventory shall also include the
11 following statement: "Please be advised that the property listed on
12 this inventory will be disposed of by the repossession agency after
13 being held for 60 days from the date of this notice IF
14 UNCLAIMED."

15 (e) The inventory shall be made available to a debtor not later
16 than 48 hours after the recovery of the collateral, except that if:

17 (1) The 48-hour period encompasses a Saturday, Sunday, or
18 postal holiday, the inventory shall be made available no later than
19 72 hours after the recovery of the collateral.

20 (2) The 48-hour period encompasses a Saturday or Sunday and
21 a postal holiday, the inventory shall be made available no later than
22 96 hours after the recovery of the collateral.

23 (3) Inventory resulting from repossession of a yacht,
24 motorhome, or travel trailer is such that it shall take at least four
25 hours to inventory, then the inventory shall be made available no
26 later than 96 hours after the recovery of the collateral. When the
27 96-hour period encompasses a Saturday, Sunday, or postal
28 holiday, the inventory shall be made available no later than 120
29 hours after the recovery of the collateral.

30 (f) Environmental, Olympic, special interest, or other license
31 plates issued pursuant to Article 8 (commencing with Section
32 5000), Article 8.4 (commencing with Section 5060) or Article 8.5
33 (commencing with Section 5100) of Chapter 1 of Division 3 of the
34 Vehicle Code that remain the personal effects of the debtor shall
35 be removed from the collateral and inventoried pursuant to this
36 section. If the plates are not claimed by the debtor within 60 days,
37 they shall be effectively destroyed and the licensee shall, within 30
38 days thereafter, notify the Department of Motor Vehicles of their
39 effective destruction on a form promulgated by the chief which has

1 been approved as to form by the Director of the Department of
2 Motor Vehicles.

3 (g) The notice may be given by regular mail addressed to the
4 last known address of the debtor or by personal service at the
5 option of the repossession agency.

6 (h) The debtor may waive the preparation and presentation of
7 an inventory if the debtor redeems the personal effects or other
8 personal property not covered by a security interest within the time
9 period for the notices required by this section and signs a statement
10 that he or she has received all the property.

11 (i) If personal effects or other personal property not covered by
12 a security interest are to be released to someone other than the
13 debtor, the repossession agency may request written authorization
14 to do so from either the debtor or the legal owner.

15 (j) The inventory shall be a confidential document and the
16 licensee shall not disclose its contents to anyone other than the
17 debtor or the person who was in possession of the collateral at the
18 time of the repossession.

19 SEC. 2. Section 7507.10 of the Business and Professions
20 Code is amended to read:

21 7507.10. Each licensee shall serve a debtor with a notice of
22 seizure as soon as possible after the recovery of collateral and not
23 later than 48 hours, except that if the 48-hour period encompasses
24 a Saturday, Sunday, or postal holiday, the notice of seizure shall be
25 provided not later than 72 hours or, if the 48-hour period
26 encompasses a Saturday or Sunday and a postal holiday, the notice
27 of seizure shall be provided not later than 96 hours, after the
28 repossession of collateral. The notice shall include all of the
29 following:

30 (a) The name, address, and telephone number of the
31 representative of the legal owner to be contacted regarding the
32 repossession.

33 (b) The name, address, and telephone number of the
34 representative of the repossession agency to be contacted
35 regarding the repossession.

36 (c) A statement printed on the notice containing the following:
37 “Repossessors are regulated by the Bureau of Security and
38 Investigative Services, Department of Consumer Affairs,
39 Sacramento, CA 95814. Repossessors are required to make
40 available to you, not later than 48 hours after the recovery of

collateral, an inventory of personal effects or other personal property recovered during repossession unless the 48-hour period encompasses a Saturday, Sunday, or a postal holiday, then the inventory shall be provided no later than 96 hours after the recovery of collateral.”

(d) A disclosure that “Damage to a vehicle during or subsequent to a repossession and only while the vehicle is in possession of the repossession agency and which is caused by the repossession agency is the liability of the repossession agency. A mechanical or tire failure shall not be the responsibility of the repossession agency unless the failure is due to the negligence of the repossession agency.”

(e) If applicable, a disclosure that “Environmental, Olympic, special interest, or other license plates issued pursuant to Article 8 (commencing with Section 5000), Article 8.4 (commencing with Section 5060) or Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code that remain the personal effects of the debtor will be removed from the collateral and inventoried, and that if the plates are not claimed by the debtor within 60 days, they will be destroyed.”

(f) A disclosure of the charges payable by the debtor to the repossession agency for the storage of the collateral and personal effects from the date of repossession until release of the property from storage.

The notice may be given by regular mail addressed to the last known address of the debtor or by personal service at the option of the repossession agency.

SEC. 3. Section 7507.14 is added to the Business and Professions Code, to read:

7507.14. A licensee shall have a possessory lien for storage charges on the collateral and a *separate possessory lien for storage charges on the* debtor’s personal effects contained in or on the collateral at the time the collateral is recovered.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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